

IC 35-43-2

Chapter 2. Burglary and Trespass

IC 35-43-2-0.1

Repealed

(Repealed by P.L.63-2012, SEC.51.)

IC 35-43-2-1 Version a

Burglary

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 1. A person who breaks and enters the building or structure of another person, with intent to commit a felony in it, commits burglary, a Class C felony. However, the offense is:

- (1) a Class B felony if:
 - (A) it is committed while armed with a deadly weapon; or
 - (B) the building or structure is a:
 - (i) dwelling; or
 - (ii) structure used for religious worship; and
 - (2) a Class A felony if it results in:
 - (A) bodily injury; or
 - (B) serious bodily injury;
- to any person other than a defendant.

As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.42; Acts 1982, P.L.204, SEC.36; P.L.88-1999, SEC.2.

IC 35-43-2-1 Version b

Burglary

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 1. A person who breaks and enters the building or structure of another person, with intent to commit a felony or theft in it, commits burglary, a Level 5 felony. However, the offense is:

- (1) a Level 4 felony if the building or structure is a dwelling;
- (2) a Level 3 felony if it results in bodily injury to any person other than a defendant;
- (3) a Level 2 felony if it:
 - (A) is committed while armed with a deadly weapon; or
 - (B) results in serious bodily injury to any person other than a defendant; and
- (4) a Level 1 felony if:
 - (A) the building or structure is a dwelling; and
 - (B) it results in serious bodily injury to any person other than a defendant.

As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.42; Acts 1982, P.L.204, SEC.36; P.L.88-1999, SEC.2; P.L.158-2013, SEC.460.

IC 35-43-2-1.5 Version a

Residential entry

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 1.5. A person who knowingly or intentionally breaks and enters the dwelling of another person commits residential entry, a Class D felony.

As added by P.L.215-1991, SEC.1.

IC 35-43-2-1.5 Version b

Residential entry

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 1.5. A person who knowingly or intentionally breaks and enters the dwelling of another person commits residential entry, a Level 6 felony.

As added by P.L.215-1991, SEC.1. Amended by P.L.158-2013, SEC.461.

IC 35-43-2-2 Version a

Criminal trespass; denial of entry; permission to enter; exceptions

Note: This version of section amended by P.L.203-2013, SEC.25. See also following version of this section amended by P.L.158-2013, SEC.462, effective 7-1-2014.

Sec. 2. (a) A person who:

- (1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;
- (2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;
- (3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;
- (4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;
- (5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent;
- (6) knowingly or intentionally:
 - (A) travels by train without lawful authority or the railroad carrier's consent; and
 - (B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;
- (7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or

asked to leave the property by a law enforcement officer when the property is vacant or designated by a municipality or county enforcement authority to be abandoned property or an abandoned structure (as defined in IC 36-7-36-1); or

(8) knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be a vacant property, an abandoned property, or an abandoned structure (as defined in IC 36-7-36-1);

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, on a key facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

- (1) personal communication, oral or written;
- (2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public; or
- (3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.

(c) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection (a)(7) unless there is reasonable suspicion that criminal activity has occurred or is occurring.

(d) A person described in subsection (a)(7) violates subsection (a)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.

(e) A person described in subsection (a)(8) violates subsection (a)(8) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

(f) Subsections (a), (b), and (e) do not apply to the following:

- (1) A passenger on a train.
- (2) An employee of a railroad carrier while engaged in the performance of official duties.
- (3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.
- (4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.
- (5) A person on the station grounds or in the depot of a railroad

carrier:

- (A) as a passenger; or
- (B) for the purpose of transacting lawful business.

(6) A:

- (A) person; or
- (B) person's:
 - (i) family member;
 - (ii) invitee;
 - (iii) employee;
 - (iv) agent; or
 - (v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.43; P.L.151-1989, SEC.12; P.L.242-1993, SEC.2; P.L.164-1993, SEC.11; P.L.1-1994, SEC.168; P.L.259-1999, SEC.3; P.L.158-2009, SEC.7; P.L.88-2009, SEC.4; P.L.203-2013, SEC.25.

IC 35-43-2-2 Version b

Criminal trespass; denial of entry; permission to enter; exceptions

Note: This version of section amended by P.L.158-2013, SEC.462, effective 7-1-2014. See also preceding version of this section amended by P.L.203-2013, SEC.25.

Sec. 2. (a) A person who:

- (1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;
- (2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;
- (3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;
- (4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;
- (5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent;

- (6) knowingly or intentionally:
 - (A) travels by train without lawful authority or the railroad carrier's consent; and
 - (B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;
- (7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is:
 - (A) vacant or designated by a municipality or county enforcement authority to be abandoned property; and
 - (B) subject to abatement under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or
- (8) knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property:
 - (A) has been designated by a municipality or county enforcement authority to be a vacant property or an abandoned property; and
 - (B) is subject to an abatement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36;

commits criminal trespass, a Class A misdemeanor. However, the offense is a Level 6 felony if it is committed on a scientific research facility, on a key facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subsection (a)(1) when the person has been denied entry by means of:

- (1) personal communication, oral or written;
- (2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public; or
- (3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.

(c) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection (a)(7) unless there is reasonable suspicion that criminal activity has occurred or is occurring.

(d) A person described in subsection (a)(7) violates subsection (a)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.

(e) A person described in subsection (a)(8) violates subsection

(a)(8) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

(f) Subsections (a), (b), and (e) do not apply to the following:

- (1) A passenger on a train.
- (2) An employee of a railroad carrier while engaged in the performance of official duties.
- (3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.
- (4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.
- (5) A person on the station grounds or in the depot of a railroad carrier:
 - (A) as a passenger; or
 - (B) for the purpose of transacting lawful business.
- (6) A:
 - (A) person; or
 - (B) person's:
 - (i) family member;
 - (ii) invitee;
 - (iii) employee;
 - (iv) agent; or
 - (v) independent contractor;going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.
- (7) A person having written permission from the railroad carrier to go on specified railroad property.
- (8) A representative of the Indiana department of transportation while engaged in the performance of official duties.
- (9) A representative of the federal Railroad Administration while engaged in the performance of official duties.
- (10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.43; P.L.151-1989, SEC.12; P.L.242-1993, SEC.2; P.L.164-1993, SEC.11; P.L.1-1994, SEC.168; P.L.259-1999, SEC.3; P.L.158-2009, SEC.7; P.L.88-2009, SEC.4; P.L.158-2013, SEC.462.

IC 35-43-2-3

Computer trespass; computer hoarding programs

Sec. 3. (a) As used in this section:

"Access" means to:

- (1) approach;
- (2) instruct;
- (3) communicate with;
- (4) store data in;
- (5) retrieve data from; or

(6) make use of resources of;
a computer, computer system, or computer network.

"Computer network" means the interconnection of communication lines or wireless telecommunications with a computer or wireless telecommunication device through:

- (1) remote terminals;
- (2) a complex consisting of two (2) or more interconnected computers; or
- (3) a worldwide collection of interconnected networks operating as the Internet.

"Computer system" means a set of related computer equipment, software, or hardware.

"Hoarding program" means a computer program designed to bypass or neutralize a security measure, access control system, or similar system used by the owner of a computer network or computer system to limit the amount of merchandise that one (1) person may purchase by means of a computer network.

(b) A person who knowingly or intentionally accesses:

- (1) a computer system;
- (2) a computer network; or
- (3) any part of a computer system or computer network;

without the consent of the owner of the computer system or computer network, or the consent of the owner's licensee, commits computer trespass, a Class A misdemeanor.

(c) A person who knowingly or intentionally uses a hoarding program to purchase merchandise by means of a computer network commits computer merchandise hoarding, a Class A misdemeanor. It is a defense to a prosecution under this subsection that the person used the hoarding program with the permission of the person selling the merchandise.

(d) A person who knowingly or intentionally sells, purchases, or distributes a hoarding program commits unlawful distribution of a hoarding program, a Class A misdemeanor. It is a defense to a prosecution under this subsection that the hoarding program was sold, purchased, or distributed for legitimate scientific or educational purposes.

As added by P.L.35-1986, SEC.3. Amended by P.L.29-2001, SEC.1; P.L.79-2009, SEC.1.